

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

No. A. No. 61 OF 1999.

Cuttack, this the 29th day of August, 2000.

Baburam Muduli.

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Applicant.

- Versus -

Union of India & others.

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Respondents.

FOR INSTRUCTIONS.

1. whether it be referred to the reporters or not? *Yes.*
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No.*

(G.NARASIMHAM)
MEMBER(JUDICIAL)

S. N. S. S.
(S. MNATH S. S.)
VICE-CHAIRMAN
29.8.2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

C.A. No. 61 OF 1999.
Cuttack, this the 29th day of August, 2000.

COURT:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

Baburam Muduli, Aged about 30 years,
S/o. Akshya @ Daitari Muduli,
At/Po: Buanl, Ps: Balasore Sadar,
Dist. Balasore. ..

Applicant.

By legal practitioner: M/s. D. P. Dhal, D. K. Das, P. Uttarkabat, Advocates.

- VRS. -

1. Union of India represented through
Chief Postmaster General, Orissa Circle,
Bhubaneswar, Dist. Khurda.
2. Supdt. of Post offices, Balasore
Division, Balasore.
3. Assistant Superintendent,
North Division, Balasore.
4. Branch Postmaster, Buanl
Ps: Sadar, Dist. Balasore.
5. Branch Post Master,
Nagram Ps: Sadar,
Dist. Balasore.

... Respondents.

By legal practitioner: Mr. A. K. Bose, Senior Standing Counsel
(Central).

J. J. M.

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Departmental Authorities to give regular appointment to him in the post of E.D.D.A., Buanal Branch Post office.

2. Applicant's case is that he has worked in the post of EDDA cum EDMC in the Buanal Branch Post office, and even though he has completed 290 days in the said post, he has not been regularised in the post of EDDA cum EDMC. He has further stated that the post is lying vacant due to prolonged illness of his father the regular incumbent. Villagers of Parikli, Balipal, Buanal and Pardipa have also made representation for appointment of the applicant to the post but without any result. This representation is at Annexure-6. In the context of the above fact, the applicant has come up in this original Application with the prayer referred to above.

3. Respondents have filed counter opposing the prayer of the applicant. For the purpose of considering this petition, it is not necessary to refer to the averments made by the Respondents in their counter because these will be taken note of at the time of considering the submissions made by Mr. Bose, learned Senior Standing Counsel. We have heard Mr. A. K. Bose, Senior Standing Counsel (Central) and have perused the records. Applicant himself has mentioned in para-4(d) of the original Application that he had been working in the place of his father, the regular incumbent, in the post as a substitute. Respondents have mentioned that from June, 1997 to December, 1997, the applicant had worked as substitute for 168 days. They

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have also mentioned that applicant's father the regular incumbent to the post of EDDA/EDMC retired on superannuation on 14.8.98. They have mentioned that after retirement of the applicant's father, the process for filling up of the post on regular basis has been taken up. Respondents have mentioned in para 12 of the counter that the candidature of the applicant for the post of EDDA/EDMC, Buanl Bo will be considered alongwith other eligible candidates, who have applied for that post. Law is well settled that experience as a substitute can not be taken into consideration for giving weightage to a substitute for regular appointment. This is because if such weightage is allowed then it would always be open for a regular ED employee to go on leave and induct one of his relations as a substitute and thereby giving undue advantage over others. ^{him} ~~to him~~. In view of this, experience of the applicant as a substitute can not be taken into consideration for filling up of the post on regular basis. Respondents have stated in the counter which has been filed on 16.8.99 that selection process is not yet over and during selection the case of the applicant will be considered alongwith others strictly in accordance with rules. It is not clear if by now the selection is already over. In case the selection is not yet over, then we dispose of this OA with a direction to the Departmental Authorities that in the process of selection the candidature of the applicant should be considered alongwith others strictly in accordance with rules. In case the selection process has already been completed in the meantime and somebody else other than the applicant has been selected then that would give rise a fresh cause of action to the applicant and that can not be adjudicated in this OA.

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In view of the fact that Respondents have pointed out that the applicant has worked only for 168 days as against 290 days as mentioned by the applicant and that too on substitute we hold that the applicant can not be appointed straightway to the post. This prayer is rejected.

4. In the result, therefore, the original Application is disposed of with the observations and directions made above. No Costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
29/2/2020

KNM/CM.